

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TYRONE HURT,

Plaintiff,

vs.

NATIONAL MUSEUM OF AFRICAN
 AMERICAN HISTORY AND CULTURE
 SMITHSONIAN,

Defendant.

Case No. 2:16-cv-02868-JCM-GWF

ORDER

This matter is before the Court on Plaintiff's Application for Leave to Proceed *In Forma Pauperis* (ECF No. 4), filed on February 23, 2017.

The court may authorize the commencement of an action without prepayment of fees and costs or security therefor, by a person who submits an affidavit that includes a statement showing the person is unable to pay such costs. 28 U.S.C. § 1915(a)(1). LSR 1-1 states as follows:

Any person who is unable to prepay the fees in a civil case may apply to the court for authority to proceed *in forma pauperis*. The application must be made on the form provided by the court and must include a financial affidavit disclosing the applicant's income, assets, expenses, and liabilities.

"The supporting affidavits [must] state the facts as to the affiant's poverty with some particularity, definiteness, and certainty." *United States v. McQuade*, 647 F.2d 938, 940 (9th Cir. 1981). The decision to grant or deny *in forma pauperis* status under § 1915 lies with the sound discretion of the Court. See *Weller v. Dickson*, 314 F.2d 598, 600 (9th Cir. 1963).

Plaintiff's application to proceed *in forma pauperis* is incomplete. Plaintiff filed a 5 page handwritten Complaint and did not provide the Application to Proceed Without Prepayment of Fees and Affidavit. As Plaintiff failed to attach the complete application, the Court at this time is unable

1 to ascertain whether he can or cannot pay the filing fee and the application to proceed *in forma*
2 *pauperis* is denied without prejudice.

3 Plaintiff will be granted an opportunity to cure the deficiencies of his application to proceed
4 *in forma pauperis*, or in the alternative, pay the full filing fee for this action. The court further
5 cautions Plaintiff that if his application is to be considered by the Court, it must be legible. If
6 Plaintiff chooses to file a new application to proceed *in forma pauperis* he must file a fully complete
7 application to proceed *in forma pauperis*. Accordingly,

8 **IT IS HEREBY ORDERED** that Plaintiff's Application to Proceed *In Forma Pauperis* is
9 **denied** without prejudice.

10 **IT IS FURTHER ORDERED** that Plaintiff shall have until April 3, 2017 to either pay the
11 appropriate filing fee of \$400.00 (which includes the \$350 filing fee and the \$50 administrative fee),
12 or submit a complete application in support of his request to proceed *in forma pauperis*.

13 **IT IS FURTHER ORDERED** that if Plaintiff does not timely comply with this order,
14 dismissal of this action may result.

15 DATED this 6th day of March, 2017.

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18 GEORGE FOLEY, JR.
19 United States Magistrate Judge
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